

REMARKS

Claims 21-30 are currently pending. Claims 21-30 stand rejected under 35 USC § 102 over U.S. Patent No. 5,456,118 issued to Hines et al. (hereinafter "Hines"). Applicants traverse this rejection for at least the following reasons.

The Manual of Patent Examining Procedure "MPEP" § 2131 states that, in order to anticipate a claim, a reference must teach every element of the claim:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)."

Applicants submit that the Hines reference has failed to teach each and every element of the present invention. More specifically, Applicants submit that the Hines reference fails to disclose all the elements of the claimed "load cell assembly" and the positioning of the "load cell assembly."

Claims 21 and 30 contain the element of "a load cell assembly positioned between said outer surface of said inner plate and said inner surface of said outer plate, wherein the load cell assembly includes at least three load cells, wherein the load cells are substantially evenly spaced apart." See claims 21 and 30, emphasis added.

Claim 22, upon which claims 23-27 depend, and claim 28, upon which claim 29 depends, contains the element of "a load cell assembly positioned between said inner plate and said outer plate for measuring a load, wherein the load cell assembly includes at least three load cells, wherein the load cells are substantially evenly spaced apart." See claims 22 and 28, emphasis added.

All of the pending claims of the application, therefore, contain the limitation of a load cell assembly being positioned between an "outer plate" and an "inner plate," the load cell assembly having "at least three load cells" that are "substantially evenly spaced apart."

The Examiner contends that the Hines reference discloses an inner plate 81, an outer plate 61 and a load cell assembly 83 positioned between the inner plate and the outer plate. The reference numeral "81" pointed out by the Examiner appears to relate to "vertical members" and not a structure analogous to an inner plate. See col. 6, line 57 of Hines. Additionally, claims 21-30 contain limitations that indicate that the inner plate is positionable against the material tested by the apparatus. Such is not the case with the vertical members "81."

Additionally, Hines discloses that the "redundant strain gages" 83, which the Examiner argues is analogous to the load cell assembly, are applied to the surface of the load beams 82. See col. 6, lines 63-37 of Hines. FIG. 3 of Hines shows that the redundant strain gages 83 are applied on the outer surface of the load beams 82. The positioning of the redundant stain gages 83, therefore, is not between top plate 61 and vertical members 81 as contended by the Examiner. The positioning of the redundant strain gages is also not between the load beams 82 and the top plate 61. In contrast, the presently claimed invention has the load cell assembly sandwiched between an inner plate and an outer plate. See FIG. 3a of the application. Hines fails to disclose such an arrangement.

Applicants further submit that Hines fails to disclose the use of "at least three load cells" that are "substantially evenly spaced apart." Hines contains no disclosure as to the number of "redundant strain gages" or to their placement with respect to each other.

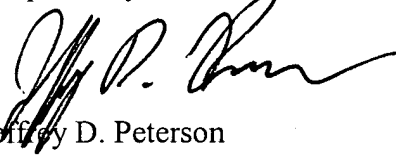
Applicants submit that the Hines reference fails to disclose all of the claim elements of claims 21-30. As the Hines reference has failed to disclose all of the elements of the presently claimed invention, Applicants submit that the reference does not anticipate the claims and requests that the Examiner withdraw the rejections to the claims on this ground.

SUMMARY

Based on the foregoing, Applicants respectfully submit that the present application is in condition for allowance, and a favorable action thereon is respectfully requested. Should the Examiner feel that any other point requires consideration or that the form of the claims can be

improved, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Jeffrey D. Peterson
Reg. No. 49,038

Docket No.: 096429-9147
Michael Best & Friedrich LLP
One South Pinckney Street
P. O. Box 1806
Madison, WI 53701-1806
(608) 257-3501

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